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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Report on the human rights situation in Haiti prepared by Mr. Philippe Texier, Independent Expert, in accordance with Commission on Human Rights resolution 1990/56

I. INTRODUCTION

1. The report submitted by the Expert at the Commission's forty-seventh session covers the period January-December 1990 but does not extend as far as the first round of elections held on 16 December 1990. Since the period of the elections and the period immediately following them were particularly eventful, it appeared helpful to travel to Haiti early in 1991, shortly before the President Elect took office, in order to update the information submitted to the Commission.

2. It was in these circumstances that a mission by the Expert, accompanied by a staff member of the Centre for Human Rights, took place in Haiti from 25 January to 2 February 1991. Thanks to this mission, contacts were made with the President Elect, the President of the Provisional Government, several Ministers (Interior, Foreign Affairs, Justice, Social Affairs), the Provisional Electoral Council and the Council of State, and with the head of the United Nations Observer Group for the Verification of Elections in Haiti (ONUVEH), OAS and various Haitian, foreign and international non-governmental organizations.

3. The Expert also met representatives of the principal political parties, successful candidates in the most recent elections (deputies, senators, mayors), and representatives of human rights organizations. He heard on-the-spot testimony by various persons about recent events in Artibonite (Saint-Marc, Pont-Sondé and Gervet) and Port-au-Prince (sacking of the Papal Nuncio's Residence, for example), and met the Government Commissioner for Port-au-Prince to learn about inquiries under way.

4. The present addendum to the report will cover three main themes: the conduct of the elections, the human rights situation and prospects for 1991.

A. The conduct of the elections

5. As early as March 1990, in the first few days after taking office, Mrs. Ertha Pascal Trouillot, President of the Provisional Government, expressed her intention to organize general elections and submitted a request for electoral assistance. Thus an initial programme of technical assistance, financed by UNDP, was immediately set in train. The first mission, led by Mr. Horacio Boneo, arrived in Port-au-Prince on 22 March. A few days after the installation of the new Provisional Electoral Council (CEP), a second technical assistance mission got under way on 15 June 1990.

6. The request was subsequently formalized by means of a number of letters from the President dated 23 June, 9 August and 14 September 1990, and the General Assembly responded to them through resolution 45/2 relating to electoral assistance to Haiti, which was adopted by consensus on 10 October 1990.

7. The whole of the preparatory phase of the elections was described in some detail in the main report, and so we shall not dwell on it here. Only the elections themselves will be briefly described.

8. On 16 December 1990, the 3,227,155 registered electors were called upon to elect:

1 President of the Republic out of 11 approved candidates;

27 senators out of 119 approved candidates;

83 deputies out of 337 approved candidates;

135 three-member municipal councils from 534 approved candidates;

565 three-member local district administrative councils (CASECs), from 1,539 approved candidates.

9. The massive registration of electors (which even exceeded the population of voting age as estimated by statisticians) aroused fears of double registration. To prevent this, the CEP used indelible ink, into which electors were required to dip their thumb after voting. The presence, in all registration and polling stations (BIVs), of representatives of the political parties and foreign observers prevented attempts at intimidation or fraud.

10. Practical preparations for the elections - organization of sufficient polling stations, training of polling officers, determination of procedures, distribution of materials (ballot papers, polling booths, ballot boxes, ink, etc.) - were lengthy and complex, as were the transmission and computerized processing of the results.

11. On the basis of our interviews with Mr. Sabalat, President of the CEP, and Mr. Boneo, Chief of Electoral Operations, and the various reports prepared on the subject (in particular, the ONUVEH reports of 14 December 1990 and 25 January 1991), it may be said that the elections took place without violence, the ballot was secret and there were no attempts at intimidation.

12. ONUVEH report A/45/870 describes the first round of elections as having taken place without major incident. The people of Haiti were able to vote in freedom and security, without being subjected to pressures of any kind. For the first time in Haiti's history, they participated in democratic and dignified elections in which they may take legitimate pride.

13. It was not until 11 January 1991 that the CEP announced the final results of the first round of elections: out of 3,271,155 registered voters, 1,640,729, or 50.2 per cent, voted. However, this figure does not give a true picture of the turnout since it does not include spoiled papers or votes which could not be counted because of poor organization of the collection of data and counting of results (returns illegible or unusable in some cases, BIV documents lost).

14. According to estimates by ONUVEH, the turnout was between a minimum of 62.5 per cent (2,044,472) and a maximum of 71.4 per cent (2,335,605), the most likely figure being around 67 per cent of registered voters.

15. On the basis of these figures, Father Jean-Bertrand Aristide, the President Elect, won 67.48 per cent of votes, Marc Bazin, the runner-up, won 14.22 per cent and Louis Dejoie, in third place, won 4.88 per cent.

They were followed by Hubert de Ronceray (3.34 per cent) and Sylvio Claude (3 per cent). The six other candidates received between 1.83 per cent and 0.62 per cent of votes cast.

16. Between the two rounds, as the ONUVEH report emphasizes, the political climate remained calmer than might have been expected, and the demonstrations following the first round went off quietly. This was due to the massive voter turnout, the substantial majority achieved by the successful candidate and the immediate acknowledgement of his victory by all the sectors concerned and by the international community.

17. The prevailing calm was shattered by the attempted coup d'état by Doctor Roger Lafontant, which is described later in this report. It was thwarted within a few hours but led to regrettable looting, in particular of the Nuncio's Residence (see below), and the re-emergence of a certain amount of popular mistrust.

18. The second round was nevertheless held, still in the presence of ONUVEH observers, in an atmosphere that remained calm, but with a smaller turnout than for the first round, the people of Haiti obviously feeling that the presidential election was the more important one. Electors had the opportunity of expressing their preference freely and in complete security. In some constituencies elections could not take place because of problems relating to the lack of electoral materials. The CASEC elections in certain communes were accordingly postponed until 27 January.

19. The final results of the elections to the National Assembly and the Senate revealed the same trends as for the presidential elections: the National Front for Change of Democracy (FNCD), which supported Father Aristide, came first both in the Assembly and in the Senate, and the ANDP, */ the party of Marc Bazin and Serge Gilles, finished second, but the FNCD did not, however, win an absolute majority. The Prime Minister's choice will, in accordance with the 1987 Constitution, have to take account of all these results. The FNCD returned 27 deputies, the ANDP 7, the PDCH 7, the PAIN 6, the RDNP 6 and the other parties between 1 and 5, giving a total of 81; the absolute majority is therefore 41. In the Senate, the FNCD won 13 seats and the ANDP 6, out of a total of 27; the absolute majority is 14.

20. The smooth conduct of the elections, both as regards their reliability and honesty, and as regards security, paves the way for the establishment of a strong, effective and cheaper electoral system which will serve as a basis for further, well-organized elections. In accordance with the Constitution, one third of senators will have to seek re-election in 1992, and another third in 1994, together with the Chamber of Deputies, mayors and the CASECs;

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*/ ANDP - National Alliance for Democracy and Progress

PDCH - Haitian Christian Democrat Party

PAIN - National Agricultural and Industrial Party

RDNP - Union of Progressive Nationalist Democrats.

presidential elections are due to be held again in 1995. In other words, the democratic process which has just got under way will require consolidation of the electoral system.

21. The 1987 Constitution provides for the immediate establishment of a permanent electoral council, but this body will clearly have a complex task and will, in particular, have to compile a permanent electoral register and improve the keeping of civil registers. It will also have to devise an elector's card or similar document and train its own staff and other staff who will be working for it. In the long term, civic instruction will have to be provided for all citizens. In all these areas, the United Nations should be able to lend its assistance to the Haitian people.

B. The human rights situation

22. Violations of human rights have unfortunately not ceased in Haiti during the two months (December and January) covered by this addendum to the report. They may be said to have taken two main forms:

(a) Land disputes and abuses by section chiefs or members of the armed forces in rural areas; and

(b) Attempts to impede the democratic process and reactions to such attempts.

1. Land disputes

23. The report submitted at the forty-seventh session examined the question of abuses by section chiefs and land disputes, particularly in the Artibonite region (massacres at Piate, Perrodin, Cabaret, for example, in March and May 1990). It was again in this region, in circumstances very similar to those of the earlier events, that a particularly serious massacre occurred, a few days before our arrival in Haiti.

24. At dawn on Thursday, 17 January 1991, there was a massacre at Gervet, fifth section in Saint-Marc (Bocozelle, in the south of the department of Artibonite). The following outline of the facts is the result of our on-the-spot inquiry, at Saint-Marc and Gervet, our conversations with the Justice and Peace Commission in the diocese of Gonaives, with Mr. Camille Leblanc, a lawyer dealing with the case, and with Mr. J.J. Honorat (Haitian Centre for Rights and Freedoms - CHADEL), and examination of the reports submitted by various bodies, in particular the Justice and Peace Commission in Gonaives.

25. The origin of the dispute was 60 carreaux (approximately 70 hectares) of land belonging to the State situated in an area known as Tè Casé (broken land). Two large local landowners are in dispute over this land; they both live in Saint-Marc, but one of them, Polinis Volsi, comes from Guitton and the other, Anous Julien, from Gervet.

26. The two villages (Guitton and Gervet) border each other in the rural section of Bocozelle. Each of the landowners has allowed peasants from his village of origin to use the land. The dispute grew more acrimonious as a result of the destruction, by inhabitants of Gervet, of a rice storehouse built in Guitton by Polinis Volsi.

27. At dawn on 17 January 1991, the chief of the fifth section of Saint-Marc came to Gervet, accompanied by two deputies; an argument broke out, and Exantus Oresi, known as Exan, the leader of the peasant community, was killed. The villagers immediately took vengeance by attacking the two deputies, Jean-Louis Vilboin and Albert Méra, who were killed.

28. Between midday and 4 p.m., 21 military personnel from Saint-Marc arrived in Gervet and began shooting at the villagers; the soldiers were bare-chested, wore fatigue trousers and used military weapons. The villagers began to run away and the aggressors set about looting, systematically burning houses, cattle and crops.

29. According to the CHADEL, the justice of the peace refused to come and draw up a report of what had happened. On 21 January, the captain in Saint-Marc submitted a report to the commander of the department of Artibonite, stating that the section chief and his deputies had been attacked for no apparent reason by inhabitants of Gervet armed with machetes, axes and staves. The report, further stated that the police and the "judiciary" arrived on the scene in the afternoon; reporters refused to accompany the captain and did not reach the spot until the following day. According to the captain, the bodies were taken away by the murderers and that very evening relatives of the victims carried out a punitive raid on the Gervet community, killing about 12 people, burning houses and slaughtering livestock.

30. The captain's report ends with these words: "Having been alerted to this further incident in the late morning of Friday, 18 January 1991, the security forces, still accompanied by the judiciary, returned to the scene and the above facts were reflected in the judicial report".

31. This version is contradicted by the CHADEL report, the statement by the Justice and Peace Commission, the statements by Mr. Leblanc and testimony by various other persons, compiled in particular by the independent commission of inquiry appointed by Mr. J.B. Aristide, the President Elect, which travelled to the scene of the events with a number of journalists and a military escort. The peasants whom we interviewed on the spot also contradicted this version.

32. We noted that almost all the village houses had been burnt; we were told that bodies had been eaten by dogs, after having been left where they had fallen pending a judicial report.

33. It would seem that, subsequently, the captain in Saint-Marc acknowledged that 18 soldiers had taken part in that incident. Since then, this captain - whom we had met in July 1990 in connection with other massacres - has apparently sought refuge in Port-au-Prince.

34. As a result of this incident, 12 persons are listed as dead or missing, including Gilles Benoit, a man of 75, several are wounded, 494 houses have been burnt and totally destroyed, and 367 families, comprising 2,088 persons, of whom 1,721 are children, have been left homeless. These figures are undoubtedly provisional.

35. It is to be hoped that the courts will for once take up the case in earnest and conduct a thorough inquiry ensuring that justice will be done. A number of NGOs have already compiled sufficient testimony for use by an official inquiry.

2. Attempts to destabilize the democratic process and subsequent reactions

36. The bomb attack which took place at Pétionville on 5 December 1990 at the end of an election rally for candidate J.B. Aristide, who was elected 11 days later, must certainly be classified under this heading. We indicated in our report that the attack killed seven people. Fortunately it did not hold up the electoral process, but that was no doubt the intention. To date, nearly two months after the event, it has still not been explained.

37. This is also true of the attempted coup d'état by Dr. Roger Lafontant and a dozen accomplices, who on the night of 6/7 January 1991 seized an army tank and went to the private residence of Mrs. Ertha Pascal Trouillot the Head of the Provisional Government. They took Mrs. Trouillot to the Presidential Palace, where Roger Lafontant declared himself President and forced her to write a letter of resignation.

38. During the interview she granted us, Mrs. Trouillot described in detail what had happened and the pressure to which she had been subjected.

39. When Roger Lafontant made declarations on radio and television in the middle of the night proclaiming himself Head of State, the people came out into the streets, blocking the main thoroughfares and, in Port-au-Prince, rushed to the Presidential Palace, filling the Place du Champ-de-Mars and the Palace gardens. Was it this pressure, as some say, or the determination of the High Command, as General Abraham told us, that put down the coup? It is too early to say. In any event, Roger Lafontant was arrested in the morning of 7 January and handed over to the judicial authorities, who remanded him in custody.

40. He was brought to the Procurator's office and interrogated by the Government Commissioner for Port-au-Prince, Maître Bayard Vincent, who also interrogated Alphonse Lahens and all the other persons responsible for the coup who are now under arrest. The Government Commissioner assured us that he was carrying out inquiries diligently and had asked the General Headquarters of the Haitian Armed Forces for a list of the military personnel involved in the coup d'état.

41. General Acedius Saint-Louis replied to him, in a letter dated 24 January 1991, that a "Commission of Inquiry had been set up to investigate the matter". He gave an assurance that any information obtained would be communicated as soon as the Commission had completed its work. That point was confirmed to us by General Abraham, who had discharged 12 officers and men from the army. Of these persons the following have been arrested: Lieutenant-Colonel (retired) Gérard E. Louis, Sergeant-Major Jean-Eric Sylla, Corporals Menthor Odilon and Pierre Bénédique and Private Francis Wilfranc. The others are at large.

42. The news of Roger Lafontant's arrest in the morning of 7 January led to reactions of joy among the public, but also to various excesses: killings, "sackings" and vandalism. About 50 supporters or alleged supporters of Duvalierism were killed and a large amount of property was destroyed, shops were looted and burnt, and the old cathedral in Port-au-Prince was set on fire. In all, 74 people are thought to have been killed, including 60 in Port-au-Prince, and more than 150 injured. Various street incidents described

to us by eyewitnesses were particularly violent, some people having been killed by burning tyres around their bodies. The home of the Interior Minister, Maître Joseph Maxi, was ransacked and set ablaze on 7 January.

43. On 17 January 1991 Father Alain Page, a Canadian priest visiting Haiti on a humanitarian mission, was ambushed and killed by a number of still unidentified armed men while he was taking donations of money and equipment to a provincial parish along with other Canadians and a Frenchman.

44. Less well explained is the "sacking" of the Papal Nuncio's Residence above Pétionville. A first group of 80 men broke into the Residence, followed a few moments later by a larger group. The Nuncio himself was molested, his clothes were torn and he received a number of blows. Much more serious, however, was the fate of his secretary, a Zairian priest, who received serious head injuries and suffered a number of fractures of the legs and ribs. Severely traumatized, he was forced to leave Haiti, according to information provided by the Nuncio when he received us. The Nuncio's Residence, which we visited, was burnt down and completely destroyed, as were all its contents, including archives, some of which were reportedly stolen.

45. No official inquiry has so far been opened, although several points have not been clarified. The Papal Nuncio told us, for example, that he had tried to get in touch with the police by telephone at around 8.15 that morning, but without success. He had, in fact, been warned that a group of people were heading towards the Residence and he was seeking protection. We also learnt, from reliable witnesses that the police had been warned about what was happening as early as 7.30 or 7.45, but had not intervened until 9.30. It seems, according to some accounts, that members of the group were carrying walkie-talkies, which is surprising because ordinary people do not usually have access to such equipment.

46. Questions also arise concerning the motives for "sacking" the Papal Nuncio's Residence, the old cathedral and the headquarters of the Episcopal Conference. One view is that the pillagers were looking for the Archbishop of Port-au-Prince, Monsignor François Wolf Ligonde, who on 1 January 1991 had delivered a very strongly-worded homily in the cathedral during the Te Deum service to mark the anniversary of independence. He had said in particular: "... Faced with threats and certain declarations, many ordinary people are even wondering whether there will be a crackdown on civil liberties because the Constitution, as they say, is nothing but paper ... Will the Constitution be violated and ignored, as it always has been in this country, to set up an authoritarian political régime? Are we going to stand idly by as a political police force is set up again? ... They (Christians) have asked themselves whether the leftist trend will not lead Haiti to don the worn-out Bolshevik socialist frock now thrown off by the countries of Eastern Europe ...".

47. Such outspokenness from a prelate who made no secret of his Duvalierist sympathies gave rise to many protests within the Haitian Church. It also provoked violent reactions. Fearing reprisals, Monsignor Ligonde left Haiti on 10 January for the Dominican Republic.

48. Various other deplorable incidents have yet to be satisfactorily explained. One of these was was the break-in which took place at the Electoral Council headquarters on 7 January, the day of the coup d'état.

About 20 military personnel were involved, including Sergeant-Major Dossous, the commander of the guard at the local CEP office. This soldier has been placed under arrest.

49. Another very surprising incident occurred while we were in Haiti, causing the deaths of at least 17 people. In the night of Saturday, 26 January to Sunday 27 January, wild rumours began circulating from about 12.30 a.m. onwards in Port-au-Prince, and in other parts of Haiti, that a coup d'état had been staged by elements from the Dominican Republic led by Franck Romain (the former Mayor of Port-au-Prince) and William Régala. The reports were completely unfounded and had to be denied, in the middle of the night, by the Mayor Elect of Port-au-Prince, Evans Paul, and later by General Herald Abraham.

50. Nevertheless the rumours spread like wildfire, some individuals going from door to door to announce a "coup d'état" that had never taken place. On hearing this news, the inhabitants of working-class districts went out into the streets, set up barricades and engaged in various acts of violence. At Carrefour they attacked a police station and, in another district, two blind musicians were killed, one of them being Ulrick Pierre, known as "Ti Pierre", a very popular singer. At Carrefour, the police apparently fired on the crowd. At least 17 people died that night, because of a completely unfounded rumour spread in ways and by persons unknown. This shows the latent violence which can flare up at any time, and also how difficult it is to determine precisely who is responsible for such acts of violence.

51. On the night of our departure from Haiti, i.e. on 2 February 1991, a telephone call at 3.30 a.m. from Monique Brisson, one of the jurists on the Father Aristide team, alerted us to a horrible incident which had just occurred: the "Family is life" hostel, run until the past few weeks by Father Aristide, had just been attacked by arsonists.

52. The hostel had been operated in a completely open way, taking in abandoned children from the streets and providing them with shelter, meals and education. The details given over the telephone were very sketchy and did not tell us the exact circumstances of the fire. We could establish only that four young children had died and that others had managed to escape. As we left Port-au-Prince at 7 a.m., we were not able to obtain any other information. Those events, like so many others, are particularly serious because they affect children and, through them, are presumably aimed at the President Elect. They are truly barbaric acts.

C. Prospects for 1991

53. The successful elections of 16 December 1990 and 20 January 1991 are a new development of major importance and augur well for the future.

54. Despite the imperfections of the electoral process, which were recognized by the CEP, the United Nations and OAS observers, and the elected representatives themselves, the result of the presidential election is beyond question. All of the very large number of people we spoke to in the course of the eight days told us that for the first time in their history, the people of Haiti had chosen their President. This unprecedented fact is, in itself, an event that is likely to change the history of Haiti in a lasting way. Yet, at

the same time, the increasing manifestations of violence during the month of January, the coup d'état and its various after-effects point to the fragility of that victory.

55. When we left Haiti, five days before the new President took office, the country was in a state of great excitement and actively preparing for the inauguration of the President Elect on 7 February 1991. Symbolically, Fort Dimanche prison, where the Duvalier dictatorship had disposed of its opponents, torturing or killing them, is to be transformed into a museum, and a memorial will be formally dedicated by the new President on 8 February, the day after his inauguration.

56. While an era of hope has opened for the vast majority of the Haitian people, the transition towards democracy that can now really begin will be a period of terrible fragility.

57. Firstly, all the events described in this addendum show the extent to which violence is still present in the daily life of Haiti: between the opponents of any form of democracy, who are nostalgic for a dictatorship that permitted all manner of abuses and corruption and who do not accept the result of the elections, and the popular masses who are ready to use every means, including extreme violence, to hold on to a victory they have been looking forward to for so long, the room for manoeuvre is very small and 1991 will continue to be a year fraught with peril for Haiti and its new Government.

58. Secondly, the scale of the task is considerable. It involves reactivating the economy of a debilitated country where performance indicators are extremely low, unemployment is high, a large part of the population live below the poverty line and institutions virtually have to be built from scratch.

59. The Constitution of March 1987 approved by the Haitian people in a plebiscite will, for the first time, be fully and completely implemented. The National Assembly and Senate are shortly to elect their Presidents, and the President of the Republic will appoint a Prime Minister and a Government that will have to get down to work: many legislative reforms are due in all areas; the judicial system has to be overhauled, partly because some retired appeals court judges have not been replaced, but mainly because the problems of training are immense in the field of justice, the police and the applicable provisions required in order to comply with the various covenants and conventions.

60. The Minister for Foreign Affairs informed us that the International Covenant on Civil and Political Rights had been published in the official gazette, the Moniteur, on 7 January 1991. The instrument of accession was sent to United Nations Headquarters in New York while we were in Port-au-Prince.

61. Furthermore, in our various conversations with them, the close advisers of the President Elect took the opportunity to indicate the firm intention of ratifying all the international human rights instruments and of amending institutions and practices with a view to implementing those instruments and respecting the Constitution of March 1987. However, they did not conceal from us the great difficulty of that task and their desire to obtain assistance

from the international community, and in particular the Centre for Human Rights, for that purpose. A formal request to that effect would be made in the first weeks of the new Government.

II. CONCLUSIONS

62. We can therefore supplement the provisional conclusions set out in the report dated 21 December 1990 as follows:

We reiterate paragraph 181 (a) of the report;

Subparagraph (b): The International Covenant on Civil and Political Rights has now been published in the official gazette of the Republic of Haiti and the instrument of accession has been sent to United Nations Headquarters. The President Elect is to ratify those conventions which have not yet been ratified;

We reiterate subparagraphs (c), (d), (e) and (f);

Subparagraph (g): The most positive aspect of the period just elapsed has been the successful elections of 16 December 1990, 6 January and 20 January 1991, which have made it possible to appoint a President of the Republic, a Parliament consisting of two chambers (Senate and Chamber of Deputies), 135 three-member municipal councils and 565 three-member local district administrative councils (CASECs);

Subparagraph (h): The 1987 Constitution is now fully restored; the President of the Republic has been elected by universal suffrage and the legal institutions are beginning to be put in place.

We reiterate subparagraph (i).

III. RECOMMENDATIONS

63. In conformity with his mandate under resolutions 1987/13, 1988/51, 1989/73 and 1990/56 of the Commission on Human Rights, the Expert submits the following recommendations:

(a) The Commission must continue to monitor the human rights situation in Haiti, with a view to helping that country to consolidate the incipient transition towards democracy;

(b) It should express its concern at the persistence of serious violations of human rights and fundamental freedoms, despite the prospect of real democratic change;

(c) Reiterate and add: "This independent expert should report on the situation and foster the provision of technical assistance";

(d) Reiterate and add: "... and respond to the demand for justice consistently made by the Haitian people since 1986".

64. These are the recommendations submitted by the Expert as a result of his fourth mission to Haiti. He considers it of the utmost importance to pursue

the dialogue with the new Government of Haiti, whose President Elect, is to take up office on 7 February 1991, as well as with the elected Parliament and the Haitian authorities in general.

65. The establishment of a fruitful and regular exchange with a view to improving the human rights situation in Haiti is especially important considering that a desire for radical change has been expressed by the new President of the Republic duly chosen by the people on the basis of universal suffrage in an election which gave him a very large majority.